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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,264	03/28/2001	Satoru Ueda	450100-03087	2071
20999	7590	05/17/2006	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			KRISCIUNAS, LINDA MARY	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/819,264

Applicant(s)

UEDA, SATORU

Examiner

Linda Krisciunas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-11 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a Final Office Action in response to the applicant's arguments filed April 26, 2006. Claims 1-11 are pending.

Response to Arguments

2. The Examiner has fully considered the applicant's arguments with respect to claim 1's limitation of poll result counting means for discriminately counting the contents polling information entered by a predetermined pollee and said contents polling information entered by a general pollee, but they are deemed not persuasive. First, the terms "predetermined pollee" and "general pollee" are not exclusively defined in the specification and are considered by the Examiner to be a type of pollee or person taking a poll or survey. De Rafael teaches (see Figure 3) a person logging into a system and being shown advertisements and being asked questions about the advertisements and responding with answers to these questions. The answers are recorded and provided to the advertiser so they can see the responses generated. This type of question and answer system is a form of polling or surveying as it performs an identical function in substantially the same manner with substantially the same results. In addition, De Rafael teaches that advertisers include manufacturers, retailers, service providers, associations, clubs and others that advertise via electronic media (column 2, lines 13-17). The applicant's Specification teaches (paragraph 19) "contents market research system for researching the marketability of a picture content before commercialization based on the polling information given by the poller and for displaying the result on a

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display apparatus", where a picture content manufacturer would be considered a retailer as well as someone that advertises via electronic media.

Lastly, Rafael teaches providing statistical information to the advertiser based upon the responses, which would require counting, at a minimum, the answers provided (column 4, lines 21-25).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5, 7-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Rafael et al (US 6,529,8778).

As per claims 1 and 9-11, Rafael teaches a contents market research apparatus comprising: contents introduction information storage means for storing content introduction information for introducing said picture content to said pollee (20, 24, whereby the advertisements disclosed broadly define a "picture content". Rafael teaches (column 2, lines 15-17: "Advertisers, such as manufacturers, retailers, service providers, associations, clubs and others who advertise via conventional electronic media, devise interactive advertisements that pose questions for users and generate further questions in response to users' previous answers" whereby the content is not

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limited to a specific type of advertisement.); contents introduction information sending means (18, input/output circuitry output), contents polling information receiving means (18, input/output circuitry input), contents polling information storage means (24, 40, 20), poll result counting means for counting contents polling information entered by pollees (column 4, lines 21-25: "Processor 10 forwards to each advertiser 14 the answers that it has received and statistical demographic information it has computed in response to users having selected and interacted with the advertisement." Whereby the statistical information would inherently need to be counted in order to calculate the statistical values.); and a display for displaying business profitability when the contact is commercialized (column 3, lines 28-44: the advertiser views the demographic information of pollees who answer yes or follow a pattern) wherein personal information is counted, if included in the contents, and a marketable field of the content is specified based on the counted result of the personal information (column 2, lines 47-55: "This information may include, for example, the user's name, residence address, age, and any other demographic information that an advertiser may wish to know about the persons who view its advertisements. Whenever the user desires to view advertisements, the user logs into the remote computer in a suitable manner that identifies the user and allows the remote computer to determine the account corresponding to that user" whereby personal information is obtained from the pollees and it is used as criteria for additional questions column 3, lines 7-15: "In certain embodiments of the invention, the questions may further be generated in response to the user's demographics. For example, a certain question may be asked only if the

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user is under 30 years of age and answered "Yes" to the previous question. The algorithm ensures that the sequence of questions and answers, although dynamically generated, is finite in length. When the user responds to the final question of the sequence, the remote computer credits the user's account." Which makes it a marketable field of the content.); and a content polling apparatus (Figure 2, where a computer is used for polling means) comprising: contents introduction information receiving means (computer (26)), contents introduction information display means (window (28)), contents polling means for entering polling information (keyboard (32)), and contents polling information sending means for sending information (32, 30 and 20).

As per claim 2, Rafael teaches the content introduction information includes said picture content (See Figures 1 and 2 where the advertisements are displayed for the pollee).

As per claim 3, Rafael teaches the contents introduction information sending means sends the content introduction information that has been classified as a function of subject matter (column 2, lines 60-64: "Alternatively, for example, the remote computer may provide a directory or a keyword search engine that the user can use to find an advertisement relating to certain subject matter that interests the user." Whereby the directory is equivalent to a classified system with respect to subject matter as it performs an identical function in substantially the same manner with substantially the same results.).

As per claim 4, Rafael teaches the contents polling information includes personal information of said pollee (column 2, lines 47-55: "This information may include, for example, the user's name, residence address, age, and any other demographic information that an advertiser may wish to know about the persons who view its advertisements. Whenever the user desires to view advertisements, the user logs into the remote computer in a suitable manner that identifies the user and allows the remote computer to determine the account corresponding to that user").

As per claim 5, Rafael teaches the contents polling information includes the merchandise purchase intention information of said pollee to be activated when said content is commercialized (column 4, lines 56-65: "Advertiser 14 has an advertiser computer 22 that communicates with remote computer 16 via Internet 20. Advertiser 14 can establish a business relationship with processor 10 that allows advertiser 14 to store interactive advertisements 24 in database 20. In this exemplary embodiment, an interactive advertisement 24 includes a set of documents defined by the hypertext mark-up language (HTML), an algorithm for selecting the next document to display, and algorithms for computing statistics of interest to advertiser 14." Whereby providing statistical data of interest is equivalent to purchase intent.).

As per claim 7, Rafael teaches the poll result counting means generates business profitability as a function of the picture content (column 3, lines 34-45: "In other embodiments, the information may be statistical information that the remote computer computes in response to the answers and the user demographics. For example, an advertiser may wish to know the average age or the total number of

persons of a certain gender, city of residence, political affiliation, or occupation, who viewed its advertisement, or similar demographic statistical information of all persons who answered "Yes" to a certain question or whose answers followed a certain predetermined pattern. Such information is highly useful to advertisers because it aids them in targeting their advertisements and responding to consumer preferences."

Whereby the company uses the information to respond to customers' preferences such that they focus their products and advertising to meets the needs of customers and in turn increase their profitability.).

As per claim 8, Rafael teaches the contents polling information includes the information indicating whether said pollee wants sales advertisements of merchandise (See Figure 3, (54) user selects advertisement).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rafael is view of Chisholm (US 5,400,248).

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As per claim 6, Rafael does not explicitly teach the predetermined pollee is provided a greater quantity of ballots than the general pollee. Chisholm teaches that it is known that the predetermined pollee is provided a greater quantity of ballots than the general pollee (column 5, lines 48-54: "All votes do not have to be weighted the same. If specified by the vote administrator, some votes may be weighted differently from each other. The default weighting of a vote is 1.0. If the vote administrator weights voter x's vote by the factor $W(x)$, $0 < W(x)$, then voter x's vote will be treated as $W(x)$ separate votes in final tabulations of all of the votes.). Chisholm is an analogous art as it also teaches about polling or voting. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the polling system of Rafael with the weighting system of Chisholm to provide a more comprehensive and marketable product.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Krisciunas whose telephone number is 571-272-6931. The examiner can normally be reached on Monday through Friday, 6:30 am to 3:00 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LMK

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May 12, 2006


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